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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,597	10/18/2001	Martin Lyons	13625/002001/107809	2866

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EXAMINER

MENDOZA, ROBERT J

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 04/23/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

**Office Action Summary**

Application No.

10/035,597

Applicant(s)

LYONS, MARTIN

Examiner

Robert J Mendoza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All   b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Luciano et al. (USPN 6,537,150).**

Regarding claims 1-4, 7 and 10-12, Luciano discloses a gaming system, which includes a simulation system for simulation the playing of a game, the simulation system enabling predetermined starting parameters to be set, a comparator for comparing an end condition of a simulation run by the simulation system using the starting parameters with a pre-calculated desired outcome of the game, adjustment means for adjusting the starting parameters such that the end condition of the simulation coincides with that of the desired outcome of the game, and re-running the simulation such that its end condition coincides with the desired outcome of the game by disclosing in col. 2:50-53, col. 8:54-67 & col. 9:1-3, the present invention comprises a gaming system and method in which the outcome of a play is determined first, and then the outcome is mapped to a symbol suitable for display to the player. An important variation on the above example is the possibility of varying the award according to the skill exhibited by the player. The player terminal can be programmed to receive input from the player, and this input

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can be evaluated to determine whether the player's input represents an optimal or sub-optimal game strategy. In the above example of a slot machine, the player can be given the opportunity of stopping a set of virtual or fixed wheels, and the extent to which the player is successful in stopping the wheels to yield repeated symbols depends on the skill of the player. The award indicated in the above tables would then be the maximum allowable award for that particular play. If the player fails to perform in the most optimal manner, the system is programmed to adjust the award so that the award is less than or equal to the maximum allowable value. The amount of adjustment can be predetermined for each play, or it can be determined randomly. Luciano discloses the simulation system is software based, the simulation system is used as means to drive a display of a graphical outcome for the game, and control means for controlling playing of the game by disclosing in col. 11:32-44, FIG. 5 provides a block diagram showing the basic components of a typical player terminal. The essential component of the terminal is main processor/controller block 100. The main board receives input from the player through touch screen sensor 116 and/or player push buttons 112. The choices made by the player, and the results of the game, can be shown on display monitor 114. The program for the game can be stored on EPROM 102, and the main board preferably has access to non-volatile memory 104. The main board can also be connected to printer 106 and bill acceptor 108.

Regarding claims 5, 6, 8, 9 and 13-17, Luciano discloses at least part of the control means includes a random number generator (a pseudo-random number generator) for generating random numbers, processing mean includes simulation software to perform the simulation and running of iterations of the simulation and the simulation software sets random starting parameters for the simulation by disclosing in col. 6:64-67, col. 7:1-10 & col. 29:9-22,

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The procedure for using a probability distribution to select an outcome, by computer, is well known in the art of Monte Carlo methods. For example, the selection from Table 2 could be obtained by generating a random number between 1 and 100, and selecting 25 if the random number is 1, selecting 10 if the random number is between 2-4, selecting 5 if the random number is between 5-9, selecting 3 if the random number is between 10-15, and selecting zero if the random number is between 16-100. If the random number generator is properly configured so that it produces a true random number within the stated range, the above procedure will select the various awards with the desired probabilities. Other techniques could be used instead of the method described above. In still another embodiment of the video poker game, there is only one lottery. In this alternative, the initial hand is randomly generated, not by selecting a game set element from a pool, but by generating a hand at random and displaying it to the player. Then, the player makes his or her decisions about which cards to hold, and the system proceeds as previously described. That is, based on the hand dealt to the player and the player's strategy, the system turns to one of the decision pools, and draws a game set element from that pool, according to a probability determined by the number of each type of game set element in the pool. This embodiment is therefore the same as the preceding version, except that the initial hand is not determined by drawing a game set element from a finite pool. Luciano discloses once the simulation end condition has been arrived at and the desired outcome for the game has been determined, adjusting the starting parameters by one of a discrete amount and a mapping function, adjusting the starting parameters using a difference between the now known end condition of the simulation and the determined, desired outcome for the game by disclosing in col. 2:62-67, col. 3:1-4 & col. 3:20-41, In the latter case, the system determines an outcome,

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without depleting any pool of awards, using a predetermined probability distribution. The system then reverse-maps that outcome to a symbol combination, which is displayed to the player. If each of a plurality of symbols corresponds to the same outcome, then the system must choose randomly among them, to determine which symbol is to be displayed. Because the "pool" is not depleted, the probability of obtaining a particular award does not change from play to play. The reverse-mapped game can be combined with an element of skill to provide an even more varied and entertaining game. For example, in a lottery-type game based on video poker, the system selects a game set element, from a pool, the game set element representing a "best" hand achievable by the player on that particular play. The system deals cards to the player, and gives the player the chance to hold or replace each card, according to the rules of poker. If the player chooses an optimal or other pre-determined strategy, the system fulfills the player's choice with cards, which correspond to the maximum award, associated with the game set element. If the player chooses a sub-optimal strategy, then the system may fulfill the player's choice with cards corresponding to an amount which is less than or equal to the maximum award amount. The difference between the maximum possible award and the amount actually awarded to the player may be placed in an electronic "bank" which can be added to the awards available on subsequent plays. A plurality of player terminals can be linked together, and the un-awarded amounts from one terminal can be added to a common "bank" shared by all of the terminals. In this way, the entertainment value of the game is still further enhanced. Luciano discloses re-running the simulation using the new starting parameters and displaying the re-running simulation as the simulation progresses by disclosing in col. 18:8-17, col. 18:62-67 & col. 19:1-8, It should be appreciated that, while the above-described methods produce a game which is exciting and

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unpredictable, from the point of view of the player, the amounts ultimately paid out to players are the same as in a conventional game. Indeed, from the point of view of the operator of the game, the games provide the operator with the same expected return as with a conventional game. Also, the games of the present invention can be easily set to provide whatever overall payout ratio is desired, simply by adjusting appropriate software parameters. Instead of awarding a maximum amount if the player selects a predetermined (or optimal) strategy, and a lesser amount otherwise, the system may be programmed simply to reduce the probability of obtaining the maximum amount in the event that the player does not select the correct strategy. In this case, there would be a plurality of possible awards, each one associated with a probability, and one award would be selected accordingly. In a more general case, the system could even be programmed to award an amount greater than the original maximum amount (such as by awarding a prize from an accumulated award bank), with a predetermined probability. The latter variation adds considerable excitement and unpredictability to the game.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to gaming systems:

USPN 6,533,660 Seelig et al discloses a gaming device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Mendoza whose telephone number is (703) 305-7345. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, V. Martin-Wallace, can be reached at (703) 308-1148.

RM

RM

April 16, 2003

  
S. THOMAS HUGHES  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700